

ITEM 13
PROPOSED CONSOLIDATION OF PARAMETERS AND GUIDELINES

Education Code Sections 51201.5 and 51229.8

Statutes 1991, Chapter 818

AIDS Instruction (CSM 4422)

and

Education Code Sections 51201.5, 51229.8, 51554 and 51553, Subdivision (b)(1)(A)

Statutes 1998, Chapter 403

AIDS Prevention Instruction (99-TC-07, 00-TC-01)

Sweetwater Union High School District, Claimant

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EXECUTIVE SUMMARY

On October 24, 2002, the Commission on State Mandates (Commission) adopted its Statement of Decision for the *AIDS Prevention Instruction* test claim. The Commission found that adding or amending Education Code Sections 51201.5, 51554 and 51553, Statutes 1998, chapter 403, constitutes a partially reimbursable state-mandated program by adding instructional content to the AIDS prevention instruction and altering the parent/guardian notification requirements.

Government Code section 17557 requires the successful test claimant to submit proposed parameters and guidelines. The claimant, Sweetwater Union High School District, submitted proposed parameters and guidelines on December 18, 2002 and requested that the parameters and guidelines for *AIDS Prevention Instruction* be consolidated with the *AIDS Instruction* parameters and guidelines.

On February 25, 1993, the Commission adopted its Statement of Decision for the *AIDS Instruction* test claim, finding that Statutes 1991, chapter 818 (Ed. Code, §§ 51201.5 & 51229.8) requires school districts to provide AIDS prevention instruction to all pupils in grades 7 through 12, as specified. This includes the costs of training employees that provide AIDS prevention instruction to district staff and students (with the exception of in-classroom teacher time), costs for school district and county office of education in-service training and planning; costs for employees involved in curriculum planning and selection of instructional materials and the costs for those materials; staff costs and materials for written notification to parents that their children will be receiving AIDS prevention instruction. The parameters and guidelines for *AIDS Instruction* were originally adopted in July 1993 and are in effect today.

This is a proposed consolidation of the parameters and guidelines for both *AIDS Instruction* and *AIDS Prevention Instruction*.

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, beginning on page 9.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

STAFF ANALYSIS

Claimants

Sweetwater Union High School District

Chronology

- 02/25/93 Commission adopted the Statement of Decision for *AIDS Instruction (AIDS I)*
- 07/22/93 Commission adopted parameters and guidelines for *AIDS I*
- 10/24/02 Commission adopted the Statement of Decision for *AIDS Prevention Instruction (AIDS II)*
- 12/18/02 Claimant submitted proposed parameters and guidelines to combine *AIDS I* and *AIDS II*
- 12/23/02 Commission requested comments on the proposed parameters and guidelines
- 08/06/03 Draft staff analysis issued
- 08/20/03 Claimant submitted comments on the draft staff analysis
- 08/27/03 State Controller's Office submitted comments on the draft staff analysis
- 08/27/03 Claimant requested that the hearing on the proposed parameters and guidelines be postponed
- 11/10/03 Final staff analysis issued

Background and Summary of the Claim

AIDS Instruction

On February 25, 1993, the Commission determined that the provisions of Education Code sections 51201.5 and 51229.8, as added by Statutes 1991, chapter 818, impose a new program or higher level of service in an existing program on school districts, within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The Commission determined that the provisions of Education Code sections 51201.5 and 51229.8 require school districts to cooperatively plan and conduct in-service training for all teachers and school employees who provide AIDS prevention instruction, including salaries and benefits of resource teachers who instruct employees and students; to provide appropriate written notice explaining the purpose of the AIDS prevention instruction to each pupil's parent or guardian; and to participate in the selection and purchase of AIDS instructional materials.

The Commission also determined that providing in-classroom AIDS prevention instruction to students does not impose a new program or a higher level of service in an existing program upon school districts.

In July 1993, the Commission adopted the parameters and guidelines for this program.¹

¹ Exhibit F.

AIDS Prevention Instruction

On October 24, 2002, the Commission adopted its Statement of Decision² finding that the test claim legislation imposes a partially reimbursable state-mandated program on school districts within the meaning of section 6, article XIII B of the California Constitution and Government Code section 17514 for the following activities:

- Including in the AIDS prevention instruction requirements the following: (1) emphasis on monogamy and the avoidance of multiple sexual partners; (2) discussion of compassion for persons suffering from debilitating handicaps and terminal diseases; (3) prohibiting the instruction be conducted so as to advocate drug use, a particular sexual practice, or sexual activities, and (4) requiring that the instruction be consistent with sex education course criteria of Education Code section 51553 (Ed. Code, § 51201.5, subd. (b));
- Revising the annual parent or guardian notifications regarding the right to obtain a copy of Education Code sections 51201.5 and 51553 from the school district (Ed. Code, § 51201.5, subd. (d));
- Keeping file copies of Education Code sections 51201.5 and 51553 and making them available to parents or guardians on request (Ed. Code, § 51201.5, subd. (d));
- Notifying parents or guardians by mail or other method used by the school district to provide notices each time an outside organization or guest speaker is scheduled to deliver AIDS prevention instruction, and each time an assembly is held to deliver AIDS prevention instruction, including: (a) the date of the instruction, (b) the name of the organization or affiliation of each guest speaker, and (c) information regarding parents of their right to obtain a copy of Education Code sections 51201.5 and 51533 from the district. This activity is a new program or higher level of service only if the notification is due to the twice-required (once in junior high or middle school and once in high school) AIDS prevention instruction. Assemblies or guest speakers that occur or appear more frequently than the twice-required instruction per student are not mandated and are therefore at the option of the school or school district. (Ed. Code, § 51201.5, subd. (d)(3));
- Providing notification to parents or guardians, at the beginning of each school year or, for pupils that enroll thereafter, at the time of that pupil's enrollment, about instruction on sexually transmitted diseases, AIDS, human sexuality or family life that is delivered in an assembly by a teacher or district administrator that is employed by the district only if the notification is due to the twice-required (once in junior high or middle school and once in high school) AIDS prevention instruction. Assemblies or guest speakers that occur or appear more frequently than the twice-required instruction per student are not mandated and are therefore at the option of the school or school district. (Ed. Code, § 51554, subd. (b)).

The following activities are not reimbursable mandates within the meaning of section 6, article XIII B of the California Constitution and Government Code section 17514:

² Exhibit A.

- Providing annual notification to parents or guardians of AIDS Prevention Instruction (Ed. Code, § 51201.5, subd. (d));
- Providing alternative educational activities to students whose parents opt out of AIDS prevention instruction. (Ed. Code, § 51201.8, subd. (g));
- Providing notification to parents or guardians, at the beginning of each school year or, for pupils that enroll thereafter, at the time of that pupil's enrollment, about instruction on family life that is delivered by an outside organization or guest speaker brought in specifically to provide that instruction (Ed. Code, § 51554, subd. (a));
- Providing AIDS Prevention Instruction course material that is factual and medically accurate, as defined, and that is free of racial, ethnic, and gender bias. (Ed. Code, § 51553, subd. (b) (1)).

Discussion

Staff reviewed the claimant's proposal.³ No comments were received from state agencies or interested parties. The claimant proposed combining the parameters and guidelines for *AIDS I*, which was adopted in July 1993, and *AIDS II*, with a reimbursement period beginning January 1, 1999.

Substantive issues are addressed below:

I. Summary of the Mandate

Staff added the activities the Commission determined to be *not* reimbursable to this section in response to the SCO's comments on the draft staff analysis.⁴

II. Eligible Claimants

Eligible claimants are school districts with students in grades 7 through 12. Based on Education Code section 47610, charter schools are not eligible claimants. They are not required to comply with the mandated activities. Staff added clarifying language to this section.

III. Period of Reimbursement

The test claim for *AIDS II* was filed on March 20, 2000. Statutes 1998, chapter 403 became effective on January 1, 1999. Therefore, this set of consolidated parameters and guidelines is operative for costs incurred from January 1, 1999, and beyond. Costs for *AIDS I* that were claimed previously for fiscal years 1998-1999, 1999-2000, 2000-2001, 2001-2002, and 2002-2003 as of the effective date of these parameters and guidelines pursuant to the State Controller's claiming instructions for Program 123 may not be claimed or reimbursed under these consolidated parameters and guidelines. Only the new activities (designated in section IV as "Beginning January 1, 1999...") may be reimbursed for those fiscal years.

³ Exhibit B.

⁴ Exhibit C and E.

IV. Reimbursable Activities

The claimant proposed preparing, revising, and adopting policies, procedures, and forms related to the *AIDS II*. Staff disagrees. *AIDS I* did not include developing and updating policies and procedures. The reimbursable activities related to *AIDS II* add to the parameters and guidelines for *AIDS I*. For example, AIDS prevention instructional material requirements were expanded to include (1) emphasizing monogamy and the avoidance of multiple sexual partners, (2) discussing compassion for persons suffering from debilitating handicaps and terminal diseases, (3) prohibiting that the instruction be conducted so as to advocate drug use, a particular sexual practice, or sexual activities, and (4) requiring the instruction be consistent with the sex education course criteria of section 51553. Parental notification requirements also increased. However, since districts already provide parents with written notice, the method of notifying parents should be defined and in place. For these reasons, staff finds that preparing, revising, and adopting policies, procedures, and forms related to the *AIDS II* are not reasonably necessary⁵ to comply with *AIDS II*, and therefore did not include the activities in the proposed parameters and guidelines.

Staff included the following activities based on the Commission's findings in its Statement of Decision that the following notification requirements of Education Code sections 51201.5 and 51554 (b) are reimbursable:

- a. Notifying parents or guardians by mail or other method used by the school district to provide notices each time an outside organization or guest speaker is scheduled to deliver AIDS prevention instruction, and each time an assembly is held to deliver AIDS prevention instruction, including: (a) the date of the instruction, (b) the name of the organization or affiliation of each guest speaker, and (c) informing parents of their right to obtain a copy of Education Code sections 51201.5 and 51533 from the district. This activity is reimbursable only if the notification is due to the twice-required (once in junior high or middle school and once in high school) AIDS prevention instruction.⁶ (Ed. Code, § 51201.5, subd.(d)(3))
- b. Notifying parents or guardians at the beginning of each school year, or for pupils that enroll thereafter, at the time of that pupil's enrollment, about instruction on sexually transmitted diseases, AIDS, human sexuality or family life that is delivered in an assembly by a teacher or district administrator that is employed by the district. This activity is reimbursable only if the notification is due to the twice-required (once in junior high or middle school and once in high school) AIDS prevention instruction.⁷ (Ed. Code, § 51554, subd. (b))

Staff also included the one-time activity of revising the annual parent or guardian notifications regarding the right to obtain a copy of Education Code sections 51201.5 and 51553 from the school district.

In its letter dated August 19, 2003, the claimant stipulated "that revising the annual parent notice to include parent rights, i.e., to receive copies of the code and information regarding

⁵ California Code of Regulations, title 2, section 1183.1, subdivision (a)(4).

⁶ Notification for assemblies or guest speakers that occur or appear more frequently is not reimbursable.

⁷ Ibid.

course content is a one-time activity. However, notices to parents regarding dates of instruction and instructors of AIDS Prevention Instruction change annually and by school site and therefore are not a one-time activity, but are instead, an annual activity.”⁸

Revising the notices to include the dates of instruction and other specified information about the AIDS Prevention Instruction is included in the notification activities as an ongoing activity. Staff recommends that the activity be reimbursed as part of the uniform allowance.

The Commission found that the requirement to keep file copies of Education Code sections 51201.5 and 51553 and make them available to parents and guardians is new. Therefore, staff included this activity.

V. Claim Preparation

In the draft staff analysis issued August 5, 2003, staff proposed that a uniform allowance be set for the one-time activity of revising the annual parent notification. In addition, staff proposed a uniform allowance for the reimbursable activities related to parent notifications shown in the table below. The rate proposed by staff is based on the per page rate established for notifications distributed to parents and guardians under the *Annual Parent Notification* program.⁹ The *Annual Parent Notification* program, like *AIDS I* and *AIDS II*, requires school districts to provide notice to the parent or guardian of all pupils on a number of items. The notices are provided annually or at other times during the school year. The uniform allowance covers all of the direct and indirect costs involved in providing the notice.

Under *Annual Parent Notification* the uniform allowance is multiplied times the number of pages of the notification material. Here, staff assumed that the *AIDS II* notifications would not exceed one page based on the limited amount of information required by statute. Therefore, the uniform allowance would be multiplied times the number of notifications distributed to parents and guardians.

Fiscal Year	Uniform Allowance
January 1, 1999 – June 30, 1999	\$0.0571
1999-2000	0.0597
2000-2001	0.0614
2001-2002	0.0629
2002-2003	0.0643
2003-2004	0.0664

⁸ Exhibit D.

⁹ The *Annual Parent Notification* per page rate of \$.05 was established for fiscal years 1992-1993 and 1993-1994. Each year, it has been adjusted according to the implicit price deflator.

In a letter dated August 19, 2003, the claimant stated that the use of a unit allowance was not anticipated when the proposed parameters and guidelines were submitted and that there is insufficient time to do a study.

Staff recommends that reimbursement for the two reimbursable activities of notifying parents and guardians be based on the uniform allowance of \$0.0664 beginning fiscal year 2003-2004 and adjusted annually based on the implicit price deflator.

As provided in section III of the proposed parameters and guidelines, the reimbursement period for these consolidated parameters and guidelines begins January 1, 1999. However, the proposed unit cost includes *AIDS I* activities for which costs may have already been claimed. Therefore, staff is recommending that the uniform cost be adopted beginning with claims filed for fiscal year 2003-2004.

Since there is no data to establish a uniform allowance for revising the notice, staff modified the proposed parameters and guidelines to allow reimbursement for actual costs. The proposed parameters and guidelines would also allow claiming actual costs for keeping copies of the code sections and making them available upon request.

X. *Legal and Factual Basis for the Parameters and Guidelines*

On October 15, 2003, the Bureau of State Audits (BSA) issued its audit report on the *Peace Officers Bill of Rights* and *Animal Adoption* programs. The audit report recommends:

To assist local entities in preparing mandate reimbursement claims, the Commission should include language in its parameters and guidelines to notify claimants and the relevant state entities that the statement of decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines; it also should point out that the support for such legal and factual findings is found in the administrative record of the test claim.

Therefore, staff included the recommended language in the parameters and guidelines for the *AIDS II* program. If the Commission adopts this language, it will be included in all future parameters and guidelines.

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, beginning on page 9. Staff further recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

Original Adopted: 7/22/93 July 22, 1993

PROPOSED CONSOLIDATION OF PARAMETERS AND GUIDELINES

Education Code Sections 51201.5 and 51229.8

~~Chapter 818, Statutes of 1991~~ Statutes 1991, Chapter 818

AIDS Instruction **(CSM 4422)**

and

Education Code Sections 51201.5, 51554 and 51553,
Subdivision (b)(1)(A)

Statutes 1998, Chapter 403

AIDS Prevention Instruction (99-TC-07, 00-TC-01)

I. SUMMARY OF MANDATE

~~Chapter 818, Statutes of 1991, added sections 51201.5 and 51229.8 to the Education Code to require school districts to provide AIDS prevention instruction to all pupils in grades 7 through 12, as specified. This includes the costs of training those employees that provide AIDS prevention instruction to district staff and students (with the exception of in-classroom teacher time); costs for school district and county office of education in service training and planning; costs for employees involved in curriculum planning and selection of instructional materials and the costs of those materials; staff costs and materials for written notification to parents that their children will be receiving AIDS prevention instruction.~~

II. COMMISSION ON STATE MANDATES DECISION SUMMARY OF THE MANDATE

The Commission on State Mandates (Commission), on February 25, 1993, determined that the provisions of Education Code sections 51201.5 and 51229.8, as added by Statutes 1991, chapter 818 ~~Chapter 818, Statutes of 1991, (Chapter 818/91)~~, impose a new program or higher level of service in an existing program on school districts, within the meaning of article XIII B, section 6 of the California Constitution and

Government Code section 17514, ~~and section 6, article XIII B of the California Constitution.~~

The Commission determined that the provisions of Education Code sections 51201.5 and 51229.8 require school districts to cooperatively plan and conduct in-service training for all teachers and school employees who provide AIDS prevention instruction, including salaries and benefits of resource teachers who instruct employees and students; to provide appropriate written notice explaining the purpose of the AIDS prevention instruction to each pupil's parent or guardian; to participate in the selection and purchase of AIDS instructional materials.

The Commission also determined that providing in-classroom AIDS prevention instruction to students does not impose a new program or a higher level of service in an existing program upon school districts.

On October 24, 2002, the Commission adopted its Statement of Decision finding that Education Code section 51201.5 and 51554 as added or amended by Statutes 1998, chapter 403 impose new activities upon school districts within the meaning of section 6, article XIII B of the California Constitution and Government Code section 17514 for the following activities:

- Including in the AIDS prevention instruction requirements the following: (1) emphasis on monogamy and the avoidance of multiple sexual partners; (2) discussion of compassion for persons suffering from debilitating handicaps and terminal diseases; (3) prohibiting the instruction be conducted so as to advocate drug use, a particular sexual practice, or sexual activities, and (4) requiring that the instruction be consistent with sex education course criteria of Education Code section 51553 (Ed. Code, § 51201.5, subd. (b));
- Revising the annual parent or guardian notifications regarding the right to obtain a copy of Education Code sections 51201.5 and 51553 from the school district (Ed. Code, § 51201.5, subd. (d));
- Keeping file copies of Education Code sections 51201.5 and 51553 and making them available to parents or guardians on request (Ed. Code, § 51201.5, subd. (d));
- Notifying parents or guardians by mail or other method used by the school district to provide notices each time an outside organization or guest speaker is scheduled to deliver AIDS prevention instruction, each time an assembly is held to deliver AIDS prevention instruction, including: (a) the date of the instruction, (b) the name of the organization or affiliation of each guest speaker, and (c) information to parents on their right to obtain a copy of Education Code sections 51201.5 and 51553 from the district. This activity is a new program or higher level of service only if the notification is due to the twice-required (once in junior high or middle school and once in high school) AIDS prevention instruction. Assemblies or guest speakers that occur or appear more frequently than the twice-required instruction per student are not mandated and are therefore at the option of the school or school district (Ed. Code, § 51201.5, subd. (d)(3)).

- Providing notification to parents, or guardians, at the beginning of each school year or, for pupils that enroll thereafter, at the time of that pupil's enrollment, about instruction on sexually transmitted diseases, AIDS, human sexuality or family life that is delivered in an assembly by a teacher or district administrator that is employed by the district only if the notification is due to the twice-required (once in junior high or middle school and once in high school) AIDS prevention instruction. Assemblies or guest speakers that occur or appear more frequently than the twice-required instruction per student requires are not mandated and are therefore at the option of the school or school district (Ed. Code, § 51554, subd. (b)).

IIII. ELIGIBLE CLAIMANTS

All school districts of the state of California, as defined in Government Code section 17519, that incur increased costs as a result of this reimbursable state mandated program are eligible to claim reimbursement of those costs. Any "school district" as defined in Government Code section 17519, with students in grades 7 to 12, which incurs increased costs due to this mandate is eligible to claim reimbursement. Charter schools are not eligible claimants.

IVIII. PERIOD OF REIMBURSEMENT

The initial test claim for Chapter 818/91 was filed on July 13, 1992, therefore all permitted costs incurred on or after January 1, 1992, for implementation of are reimbursable. Actual costs for one fiscal year should be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Section 17561 (d)(3) of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days of notification by the State Controller of the enactment of the claims bill.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

Government Code section 17557 requires that a test claim be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim for *AIDS Prevention Instruction* was filed on March 20, 2000. However, Statutes 1998, chapter 403 became effective January 1, 1999. Therefore, this consolidated set of parameters and guidelines is operative for costs incurred from January 1, 1999, and beyond.

Costs for *AIDS Instruction* (CSM 4422) that have been claimed for fiscal years 1998-1999, 1999-2000, 2000-2001, 2001-2002, and 2002-2003 as of the effective date of these parameters and guidelines pursuant to the State Controller's claiming instructions for Program 123 may not be claimed and are not reimbursable under these parameters and guidelines. Reimbursement for costs for *AIDS Prevention Instruction* (99-TC-07 and 00-TC-01) for fiscal years 1998-99 through 2002-03 may be claimed for activities specified in section IV of these parameters and guidelines designated with "Beginning January 1, 1999..."

Actual costs for one fiscal year should be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to

Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of the issuance of the State Controller's claiming instructions.

If total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

VIV. REIMBURSABLE COSTS/ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

A. Scope of Mandate

~~School districts shall be reimbursed for costs incurred to provide AIDS prevention instruction to all pupils in grades 7 through 12, as specified, through procedures that include cooperatively planning and conducting in-service training for all classroom and non-classroom employees who provide AIDS prevention instruction; through provision of appropriate written notice explaining the purpose of the AIDS prevention instruction to each pupil's parent or guardian; through participation in the selection and purchase of AIDS instructional materials, as described in Education Code sections 51201.5 and 51229.8.~~

For each eligible claimant, the following activities are eligible for reimbursement:

B. Reimbursable Activities of Education Code Sections 51201.5 and 51229.8 include:

1A. Instructional Costs

a1. In-service training

The costs of instructors in providing HIV/AIDS prevention instruction to school district employees with assigned responsibility for providing the HIV/AIDS prevention instruction to grades 7-12. In addition, the salaries and related benefits for the time of the school district employee with assigned responsibility for HIV/AIDS prevention instruction in grades 7-12, while in the training class is also reimbursable.

~~b.2.~~ Students HIV/AIDS Prevention Instruction

The salaries and related benefits of non-classroom district employees, such as resource teachers, who provide this mandated HIV/AIDS prevention instruction to students of the district will be reimbursed.

Beginning January 1, 1999, instruction includes the following: (1) emphasis on monogamy and the avoidance of multiple sexual partners; (2) discussion of compassion for persons suffering from debilitating handicaps and terminal diseases; (3) prohibiting the instruction be conducted so as to advocate drug use, a particular sexual practice, or sexual activities, and (4) requiring that the instruction be consistent with sex education course criteria of Education Code section 51553 (Ed. Code, § 51201.5, subd. (b));

The reasonable costs of consultants providing this instruction are also reimbursable. However, in-classroom teacher time is not a reimbursable item.

~~e.3.~~ Planning

The costs-of planning by the school district and by the county office of education for the AIDS instruction in-service program. The salaries and benefits of district employees participating in this cooperative in-service training and planning project are reimbursable.

~~e.4.~~ Curriculum Selection Instructional Materials

The salaries and benefits of the employees of the school district and of the county office of education involved in the selection process that identifies instructional materials and the cost of those materials are reimbursable.

Beginning January 1, 1999, instructional material must accurately reflect Education Code section 51201.5, subdivision (b).¹⁰

~~2B.~~ Notification Costs

1. Annual Parent Notification

a. ~~The cost of providing~~Providing written notification to parents or guardians informing them of planned AIDS prevention instruction and their

¹⁰ See Appendix A

~~options. Salaries, benefits, printing, postage and supply costs incurred by the governing board of each school district, each county board of education, and each county superintendent of schools, as applicable, related to mandated AIDS instruction notification are reimbursable.~~

2. Parent Notification of Guest Speaker and/or Assembly on AIDS Prevention

a. Beginning January 1, 1999, notifying parents or guardians by mail or other method used by the school district to provide notices each time an outside organization or guest speaker is scheduled to deliver AIDS prevention instruction, and each time an assembly is held to deliver AIDS prevention instruction, including: (a) the date of the instruction, (b) the name of the organization or affiliation of each guest speaker, and (c) informing parents or guardians of their right to obtain a copy of Education Code sections 51201.5 and 51533 from the district. This activity is reimbursable only if the notification is due to the twice-required (once in junior high or middle school and once in high school) AIDS prevention instruction.¹¹ (Ed. Code, § 51201.5, subd. (d)(3).)

b. Beginning January 1, 1999, notifying parents or guardians at the beginning of each school year, or for pupils that enroll thereafter, at the time of that pupil's enrollment, about instruction on sexually transmitted diseases, AIDS, human sexuality or family life that is delivered in an assembly by a teacher or district administrator that is employed by the district. This activity is reimbursable only if the notification is due to the twice-required (once in junior high or middle school and once in high school) AIDS prevention instruction.¹² (Ed. Code, § 51554, subd. (b).)

C. Education Code sections 51201.5 and 51553

1. Beginning January 1, 1999, the one-time cost of revising the annual parent or guardian notification regarding the right to obtain a copy of Education Code sections 51201.5 and 51553 from the school district.

2. Beginning January 1, 1999, keeping on file copies of Education Code section 51201.5 and 51553 to give out on request.

VIV. CLAIM PREPARATION

~~Each claim for reimbursement pursuant to this state-mandated program must be timely filed and set forth a listing of each item for which reimbursement is claimed.~~

~~A. Description of Activity~~

~~Claimed costs must be allocated according to the four components of reimbursable activity described in Section V. B.~~

¹¹ Notification for assemblies or guest speakers that occur or appear more frequently is not reimbursable.

¹² Ibid.

~~B.——Supporting Documentation~~

~~Claimed costs should be supported by the following information:~~

~~1.——Employee Salaries and Benefits~~

~~Identify the employee(s) and their job classification, describe the mandated functions performed and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study.~~

~~2.——Services and Supplies~~

~~Include only expenditures which can be identified as a direct cost of the mandated program. List cost of materials which have been consumed or expended specifically for the purpose of this state mandated program.~~

~~3.——Allowable Overhead Cost~~

- ~~a.——School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.~~
- ~~b.——County offices of education must use the J-73/A (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.~~

Beginning with reimbursement claims filed for fiscal year 2003-2004 and beyond, actual costs for reimbursable activities IV. B. 1 and 2 shall be claimed based on the uniform allowance of \$0.0664 adopted by the Commission pursuant to Government Code section 17557. The uniform allowance shall be adjusted each subsequent year by the Implicit Price Deflator referenced in Government Code section 17523.

The uniform allowance covers all the direct and indirect costs of performing the activities described in section IV B. 1 and 2. Direct costs are those costs incurred specifically for the reimbursable activities. Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Uniform Allowance for AIDS Prevention Instruction (Activities IV. B 1 and 2 of these parameters and guidelines) – The uniform allowance is comprised of a fixed cost per notification distributed to parents and guardians. Reimbursement is determined by multiplying the uniform allowance for the appropriate fiscal year by the number of notifications.

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV A and C of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. Direct costs that are eligible for reimbursement are:

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

6. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3, Contracted Services.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹³ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

¹³ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

VII. SUPPORTING DATA

~~For auditing purposes, all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs. These documents must be kept on file by the claimant for a period of no less than three years from the date of the final payment of the claim pursuant to this state mandated program, and made available on the request of the State Controller or his agent.~~

VIII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a direct result of this the same statutes or executive orders found to contain the mandate shall ~~must~~ be deducted from the ~~reimbursement~~ costs claimed. In addition, reimbursement for this ~~state-mandated program~~ received from any source, including but not limited to, e.g., service fees collected, federal funds, and other state funds, etc., (e.g., Instructional Materials Fund) shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

XI. REQUIRED CERTIFICATION

~~An authorized representative of the claimant will be required to provide a certification of claim, as specified in the State Controller's claiming instructions, for those program costs mandated by the state contained herein.~~

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (a), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

APPENDIX A

Education Code section 51201.5, as amended by Statutes 1998, chapter 403:

(a) Commencing in the 1992-93 school year, school districts shall ensure that all pupils in grades 7 to 12, inclusive, or the equivalent thereof, except as otherwise provided in subdivision (c), receive AIDS prevention instruction from adequately trained instructors in appropriate courses. Each pupil shall receive the instruction at least once in junior high or middle school and once in high school. For purposes of this subdivision, "school district" includes county boards of education, county superintendents of schools, and the State Schools for the Handicapped.

(b) The required AIDS prevention instruction shall accurately reflect the latest information and recommendations from the United States Surgeon General, federal Centers for Disease Control, and the National Academy of Sciences, and shall include the following:

(1) Information on the nature of AIDS and its effects on the human body.

(2) Information on how the human immunodeficiency virus (HIV) is and is not transmitted, including information on activities that present the highest risk of HIV infection.

3) Discussion of methods to reduce the risk of HIV infection. This instruction shall emphasize that sexual abstinence, monogamy, the avoidance of multiple sexual partners, and abstinence from intravenous drug use are the most effective means for AIDS prevention, but shall also include statistics based upon the latest medical information citing the failure and success rates of condoms and other contraceptives in preventing sexually transmitted HIV infection and information on other methods that may reduce the risk of HIV transmission from intravenous drug use. Nothing in this section shall be construed to supersede Section 51553.

(4) Discussion of the public health issues associated with AIDS.

(5) Information on local resources for HIV testing and medical care.

(6) Development of refusal skills to assist pupils in overcoming peer pressure and using effective decisionmaking skills to avoid high-risk activities.

(7) Discussion about societal views on AIDS, including stereotypes and myths regarding persons with AIDS. This instruction shall emphasize compassion for persons suffering from debilitating handicaps and terminal diseases, like AIDS.

(c) AIDS prevention instruction may not be conducted in a manner that advocates drug use, a particular sexual practice, or sexual activities. AIDS prevention instruction shall be consistent with Section 51553.

(d) At the beginning of each school year or, with respect to a pupil who enrolls in a school after the beginning of the school year, at the time of that pupil's enrollment, the governing board of each school district, each county board of education, and each county superintendent of schools, as applicable, shall provide the parent or guardian of each pupil in grades 7 to 12, inclusive, or the equivalent thereof, with written notice explaining the purpose of the AIDS prevention instruction and information stating the parent or guardian's right to request a copy of this section and Section 51553, related to AIDS prevention instruction. The governing board of each school district, each county board of education, and each county superintendent of schools, as applicable, shall keep on file copies of this section and Section 51553. The Superintendent of Public Instruction shall provide the parent or guardian of each pupil in grades 7 to 12, inclusive, or the equivalent thereof, in the State Schools for the Handicapped with written notice explaining the purpose of the AIDS prevention instruction.

(1) The notice shall specify that any parent or guardian may request that his or her child or ward not receive instruction in AIDS prevention. No pupil shall attend the AIDS prevention instruction if a written request that he or she not attend has been received by the school. For the governing boards of school districts, this notification shall accompany the reporting of rights and responsibilities required by Section 48980.

(2) If authorized by the school district governing board, a school district may require parental consent prior to providing instruction on AIDS prevention to any minor pupil.

(3) At any time that an outside organization or guest speaker is scheduled to deliver AIDS prevention instruction, or anytime an assembly is held to deliver AIDS prevention instruction, notification shall be sent to the pupils' parents or legal guardians through regular United States mail, or any other method that the school district, county board of education, or county superintendent of schools, as applicable, commonly uses to communicate individually in writing to all parents or guardians, at the beginning of the school year or, with respect to a pupil who enrolls in a school after the beginning of the school year, at the time of that pupil's enrollment. If arrangements for this instruction are made after these occurrences, notice shall be mailed, or provided by the alternative method of notification otherwise commonly used, no fewer than 10, and no more than 15, days before the instruction is delivered. Notification sent pursuant to this paragraph shall include the date of the instruction, the name of the organization or affiliation of each guest speaker, and information stating the parent or guardian's right to request a copy of this section and Section 51553, related to AIDS prevention instruction. The governing board of each school district, each county board of education, and each county superintendent of schools, as applicable, shall keep on file copies of this section and Section 51553.

(e) All school districts shall ensure all of the following:

(1) That instructional materials related to this instruction are available.

(2) That these instructional materials are appropriate for use with pupils of various ages and learning abilities.

(3) That these instructional materials may be used effectively with pupils from a variety of ethnic, cultural, and linguistic backgrounds, and special needs.

(f) A pupil shall not be subject to disciplinary action, academic penalty, or other sanction if the pupil's parent or guardian declines to permit the pupil to receive the instruction described in subdivision (a) and the pupil does not receive the instruction.

(g) While the instruction described in subdivision (a) is being delivered, an alternative educational activity shall be made available to pupils whose parents or guardians have requested that they not receive the instruction described in subdivision (a).